

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

COREY KEARN,

Plaintiff,

v.

LAKEWOOD POLICE DEPARTMENT,  
OFFICER REIGLE, OFFICER HALL,  
and OFFICER RUSSELL,

Defendants.

No. C10-5334 RBL/KLS

ORDER DENYING PLAINTIFF'S  
EMERGENCY MOTION, MOTION FOR  
ATTORNEY, AND MOTION FOR  
EXTENSION OF DEADLINES

Before the Court are Plaintiff's letter request for the appointment of counsel (ECF No. 31), Motion for Extension of Time on Deadlines (ECF No. 33), and Emergency Motion for Stay Pending Appointment of Attorney and Request for Appointment of Attorney (ECF No. 35). Plaintiff's previous three motions requesting counsel were denied. ECF Nos. 19 and 24. His motion for reconsideration, filed seven months later, was also denied. ECF No. 29. The Court granted Plaintiff's request to extend the discovery deadline because he asserted he was undergoing treatment for mental health issues and drugs. *Id.*

There is no legal or factual basis requiring the Court to continue to revisit Plaintiff's repeated requests for counsel. Plaintiff insists that he is not of sound mind to prosecute his case, that he must rely on other inmates to assist him, and that he will require an expert medical witness to prove his case of assault. ECF No. 36. As previously noted by the Court, these are not extraordinary circumstances warranting the appointment of counsel. Plaintiff has not

1 demonstrated how his mental health issues, if any, prevent him from adequately pursuing his  
2 claims. Plaintiff filed his complaint pro se and he has demonstrated an adequate ability to  
3 articulate his claims pro se. Plaintiff has not demonstrated that the issues involved in this case are  
4 complex or that he has had any difficulties in expressing them. The issue in this case, whether or  
5 not there was an unconstitutional use of force, is not complex. Nor has plaintiff provided any  
6 evidence of exceptional circumstances or a likelihood of success on the merits.  
7

8 Plaintiff's request for a second extension of the discovery deadline is similarly without  
9 merit. According to counsel for Defendants, Plaintiff has not engaged in any discovery in this  
10 case and has not taken any steps to prosecute his case other than to file repeated requests for  
11 counsel. ECF No. 34, p. 2. Plaintiff also declined to discuss a discovery plan with defense  
12 counsel until he obtained an attorney. *Id.* Plaintiff's deposition is currently scheduled to be  
13 taken at Shelton on Friday, May 20<sup>th</sup>. Plaintiff's deposition has already been rescheduled once at  
14 his request. Defendants have made the necessary arrangements to proceed with Plaintiff's  
15 deposition at Shelton on Friday, including background checks for counsel and the court reporter,  
16 reserving room for the deposition, and coordinating with Plaintiff's schedule within the facility.  
17 *Id.*  
18

19 There is no basis for extending the discovery deadline further or for delaying Plaintiff's  
20 deposition.  
21

22 The Court is troubled by the Plaintiff's repeated motions for counsel, in which he fails to  
23 demonstrate that he meets the legal standard for the appointment of counsel. Under Rule 11 of  
24 the Federal Rules of Civil Procedure, Plaintiff's signature on a pleading is an indication that the  
25 motion is brought in good faith and is not designed to needlessly increase the cost of litigation.  
26 Plaintiff is warned that future motions should address the proper legal standard for the Court's

1 consideration. Failure to do so may result in sanctions, which may include costs, monetary  
2 sanctions, and possibly dismissal of the action.

3 Accordingly, it is **ORDERED**:

4 (1) Plaintiff's letter requesting the appointment of counsel (ECF No. 31), Motion for  
5 Extension of Time on Deadlines (ECF No. 33), and Emergency Motion for Stay Pending  
6 Appointment of Attorney and Request for Appointment of Attorney (ECF No. 35) are **DENIED**.  
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8 (2) The Clerk is directed to send copies of this Order to Plaintiff and counsel for  
9 Defendants.

10 DATED this 18th day of May, 2011.

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13 Karen L. Strombom  
14 United States Magistrate Judge  
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